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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,181	10/29/2003	Roberto Carlos Perez	19508	6535
23556 7590 02/12/2007 KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER KIDWELL, MICHELE M	
			ART UNIT	PAPER NUMBER
			3761	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		02/12/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/12/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Kimberly-Clark.Docket@kcc.com
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Office Action Summary	Application No. 10/696,181	Applicant(s) PEREZ ET AL.	
	Examiner Michele Kidwell	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-41 is/are pending in the application.
- 4a) Of the above claim(s) 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group 1 in the reply filed on April 27, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 17 – 26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on April 27, 2006.

Response to Arguments

Applicant's arguments with respect to claims 17 – 41 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouellette et al. (US 5,431,643) and further in view of Raley (US 4,846,813).

With respect to claims 27 – 30, 32 and 34, Ouellette et al. (hereinafter “Ouellette”) discloses an absorbent article, comprising: a cover layer (28) comprising a user contacting surface and a non-contacting surface, a bottom layer and an absorbent layer disposed therebetween (col. 2, lines 35 – 39) wherein the user contacting surface and a non-contacting surface have an ink indicia imprinted thereon (col. 5, lines 42 – 44) with surfactant (col. 5, line 18 to col. 6, line 57) and/or a botanical extract. The cover layer also includes one or more apertures as taught in col. 2, lines 49 – 50.

The difference between Ouellette and claim 1 is the provision that the apertures have a tapered opening.

Raley teaches a topsheet that includes apertures with a tapered opening as set forth in figure 2.

It would have been obvious to one of ordinary skill in the art to modify the apertures of Ouellette to provide apertures with tapered openings because apertures with tapered openings will allow for more effective acceptance and retention of liquids as taught by Raley in the abstract.

With reference to claim 31, Ouellette discloses an absorbent article that comprises a cover material that is apertured by a method of vacuum aperturing, pin aperturing, hydroentanglement, ultrasonic and a combination thereof as set forth in col. 4, line 66 to col. 5, line 6.

As to claim 33, Ouellette discloses an absorbent article wherein the indicia comprises a color that contrasts with the cover layer so as to make the indicia visually apparent to the user of the article as set forth in col. 2, lines 39 – 48.

As to claim 35, Ouellette discloses an absorbent article wherein the indicia comprises an ink that has a second surfactant as set forth in col. 6, lines 33 – 36.

The difference between Ouellette and claim 35 is the provision that the surfactants are present in a specific amount.

It would have been obvious to one of ordinary skill in the art to modify the amount of surfactant in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range is within the level of ordinary skill in the art.

As to claim 36, Ouellette discloses an absorbent article wherein the cover layer comprises a polyolefin as set forth in col. 4, lines 67 – 65.

The difference between Ouellette and claim 37 is the provision that the apertured cover layer has a specific open area.

The examiner contends that one may consider any one up to and including all apertures in order to meet the claimed limitations.

Alternatively, it would have been obvious to one of ordinary skill in the art to modify the amount of open area in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range is within the level of ordinary skill in the art.

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Regarding claim 38, Ouellette discloses a cover layer that includes cotton as set forth in col. 4, lines 57 – 65.

As to claim 39, Ouellette discloses an embossed cover layer as set forth in col. 5, lines 14 – 17.

A macroembossed material may be considered a relative term and is not considered a patentable distinction based on the fact that embossing is taught by the prior art of record.

Regarding claim 40, Ouellette discloses an article wherein the cover layer is bonded to an under layer selected from the listed group as set forth in col. 6, line 67 to col. 7, line 6.

With reference to claim 41, Ouellette discloses an article that may include a variety of additional layers as set forth in col. 7, lines 32 – 37. The incorporated references include the use of a dual topsheet, which as taught by Ouellette, may be treated with a surfactant. Likewise, the acquisition layer that Ouellette discloses as being usable with the article is well known in the art to be capable of being treated with a surfactant for increased and more efficient absorption.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Michele Kidwell
Primary Examiner
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